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8  
9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 TONIE ROBINSON,

12 Plaintiff,

13 vs.

14 MV TRANSPORTATION, INC.; DOE BUS  
15 OPERATOR; DOE BUS DRIVER; DOES I-  
16 X; and ROE CORPORATIONS I-X,  
inclusive,

17 Defendants.

18 CASE NO.: 2:17-cv-01491-RFB-PAL

**MOTION TO SUBSTITUTE PARTY**

19 Ian C. Estrada, Esq., counsel for deceased Plaintiff, Tonie Robinson, the deceased's  
20 surviving spouse, James Robinson, hereby move this Court to substitute Robert O. McMaster as  
21 Plaintiff in this matter.

22 This Motion is made and based on the papers and pleadings on file herein, the following  
23 Memorandum of Points and Authorities, and any oral argument by counsel at the time of any  
24 hearing on this Motion.

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1                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2                   **I.        INTRODUCTION**

3                   Plaintiff Tonie Robinson died on November 23, 2018. On August 4, 2021, the Court  
4                   denied Defendant MV Transportation, Inc.’s Motion to Dismiss and granted an extension of  
5                   time, until August 9, 2021, for Plaintiff to file a Motion to Substitute Party.

6                   Pursuant to this Court’s August 4, 2021 Order as well as FRCP 25, the surviving spouse  
7                   and legal heir of Plaintiff Tonie Robinson, James Robinson, moves the Court to substitute Robert  
8                   O. McMaster, the Petitioner for Special Administration of the Estate of Tonie Robinson to be  
9                   substituted into this matter as Plaintiff.

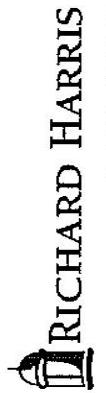
10                  **II.      STATEMENT OF FACTS**

11                  On August 4, 2021, this Court denied Defendant MV Transportation’s Motion to Dismiss  
12                  for failure to substitute a party in place of decedent, Tonie Robinson. The Court’s Minute Order  
13                  denied the Motion without prejudice, finding that “there is excusable neglect in this case. The  
14                  Court finds that the parties continued to have intermittent contact about this case and the failure  
15                  to file the motion was an inadvertent oversight.” Therefore, the Court also granted the  
16                  undersigned’s Motion to Extend Time to substitute party.

17                  On August 9, 2021, Robert O. McMaster filed a Petition for Special Letters of  
18                  Administration in the Eighth Judicial District Court of Nevada, Clark County to be named as the  
19                  Special Administrator of the Estate of Tonie Robinson for purposes of continuing this litigation  
20                  as a survival claim on behalf the estate pursuant to NRS 41.100. *See Exhibit 1.* This Motion  
21                  will be supplemented with the Order Granting Petition and the Letters of Special Administration  
22                  immediately upon receipt of the same.

23                  **III.     LEGAL ARGUMENT**

24                  Pursuant to FRCP 25, Plaintiff Tonie Robinson’s surviving spouse and legal heir, James  
25                  Robinson, and Petitioner for Special Administration of the Estate of Tonie Robinson, Robert O.  
26                  McMaster, request that this Court substitute Robert O. McMaster as Plaintiff in this matter.



1       Alternatively, Mr. Robinson and Mr. McMaster request that the Court extend the  
2 deadline for the estate to be substituted into this matter for 45 days to allow time for the Eighth  
3 Judicial District Court of Nevada to review Mr. McMaster's Petition and to enter the Order and  
4 Letters of Special Administration.

## **6 | IV. CONCLUSION**

7       Based on the foregoing, the Court should enter an order substituting Robert O. McMaster  
8 as Plaintiff in this matter if this Motion is supplemented with the Order and Letters of Special  
9 Administration prior to the Court's ruling on this matter. Alternatively, the Court should grant  
10 a 45 day extension of time to allow the undersigned to obtain an Order and Letters of Special  
11 Administration with Plaintiff to file a status update with the Court on the 45<sup>th</sup> day if the Order  
12 and Letters are not yet obtained.

DATED this 9<sup>th</sup> day of August, 2021

## RICHARD HARRIS LAW FIRM

/s/ Ian C. Estrada

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*Attorneys for Plaintiff and*

## Order

IT IS ORDERED that ECF No. 66 is GRANTED as unopposed under LR 7-2(d).

## **IT IS SO ORDERED**

**DATED:** 3:52 pm, August 30, 2021

*Brenda Weksler*  
BRENDA WEKSLER  
UNITED STATES MAGISTRATE JUDGE